

ASSEMBLY BILL

No. 260

Introduced by Assembly Member Lopez

February 9, 2015

An act to amend Sections 300 and 16002.5 of, and to add Section 825.5 to, the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 260, as introduced, Lopez. Foster care: parenting youth.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent of the court under certain circumstances, including when the child has been left without any provision for support or when a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law provides that the Legislature declares that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely because of the age, dependent status, or foster care status of the parent.

This bill would additionally declare that a child whose parent has been adjudged a dependent child of the court shall not be considered at risk of abuse or neglect solely on the basis of information concerning the parent's placement history, behaviors, health or mental health diagnoses, or any other circumstances, occurring prior to the birth of the child.

Existing law requires the clerk of the superior court to open a separate court file for nonminor dependents under the dependency, delinquency, or transition jurisdiction of the court and limits access to those files.

This bill would require the clerk of the superior court to maintain court files and records concerning a minor dependent parent or a

nonminor dependent parent separate from court files and records concerning his or her child, as specified. The bill would prohibit dependency court records concerning a minor dependent parent or a nonminor dependent parent from being disclosed to counsel in the child's dependency proceedings or admitted as evidence in the child's dependency proceedings, except pursuant to a certain court order.

Existing law declares the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor dependant parents and nonminor dependent parents. Existing law requires foster care placements for minor parents and their children to demonstrate a willingness and ability to provide support and assistance to minor parents and their children.

This bill would additionally require those foster care placements to support the preservation of the family unit and provide preventive services to address any concerns regarding the safety, health, or well-being of the child, and to prevent, whenever possible, the filing of a petition to declare the child a dependent of the juvenile court.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 300 of the Welfare and Institutions Code
2 is amended to read:
3 300. Any child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:
6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child's parent or guardian. For the purposes
9 of this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child's siblings, or a combination of these and other
13 actions by the parent or guardian which indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, "serious
15 physical harm" does not include reasonable and age-appropriate
16 spanking to the buttocks where there is no evidence of serious
17 physical injury.

(b) (1) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child, or the willful or negligent failure of the child's parent or guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law.

1 These children shall be known as commercially sexually exploited
2 children.

3 (c) The child is suffering serious emotional damage, or is at
4 substantial risk of suffering serious emotional damage, evidenced
5 by severe anxiety, depression, withdrawal, or untoward aggressive
6 behavior toward self or others, as a result of the conduct of the
7 parent or guardian or who has no parent or guardian capable of
8 providing appropriate care. No child shall be found to be a person
9 described by this subdivision if the willful failure of the parent or
10 guardian to provide adequate mental health treatment is based on
11 a sincerely held religious belief and if a less intrusive judicial
12 intervention is available.

13 (d) The child has been sexually abused, or there is a substantial
14 risk that the child will be sexually abused, as defined in Section
15 11165.1 of the Penal Code, by his or her parent or guardian or a
16 member of his or her household, or the parent or guardian has
17 failed to adequately protect the child from sexual abuse when the
18 parent or guardian knew or reasonably should have known that
19 the child was in danger of sexual abuse.

20 (e) The child is under the age of five years and has suffered
21 severe physical abuse by a parent, or by any person known by the
22 parent, if the parent knew or reasonably should have known that
23 the person was physically abusing the child. For the purposes of
24 this subdivision, “severe physical abuse” means any of the
25 following: any single act of abuse which causes physical trauma
26 of sufficient severity that, if left untreated, would cause permanent
27 physical disfigurement, permanent physical disability, or death;
28 any single act of sexual abuse which causes significant bleeding,
29 deep bruising, or significant external or internal swelling; or more
30 than one act of physical abuse, each of which causes bleeding,
31 deep bruising, significant external or internal swelling, bone
32 fracture, or unconsciousness; or the willful, prolonged failure to
33 provide adequate food. A child may not be removed from the
34 physical custody of his or her parent or guardian on the basis of a
35 finding of severe physical abuse unless the social worker has made
36 an allegation of severe physical abuse pursuant to Section 332.

37 (f) The child’s parent or guardian caused the death of another
38 child through abuse or neglect.

39 (g) The child has been left without any provision for support;
40 physical custody of the child has been voluntarily surrendered

1 pursuant to Section 1255.7 of the Health and Safety Code and the
2 child has not been reclaimed within the 14-day period specified
3 in subdivision (e) of that section; the child's parent has been
4 incarcerated or institutionalized and cannot arrange for the care of
5 the child; or a relative or other adult custodian with whom the child
6 resides or has been left is unwilling or unable to provide care or
7 support for the child, the whereabouts of the parent are unknown,
8 and reasonable efforts to locate the parent have been unsuccessful.

9 (h) The child has been freed for adoption by one or both parents
10 for 12 months by either relinquishment or termination of parental
11 rights or an adoption petition has not been granted.

12 (i) The child has been subjected to an act or acts of cruelty by
13 the parent or guardian or a member of his or her household, or the
14 parent or guardian has failed to adequately protect the child from
15 an act or acts of cruelty when the parent or guardian knew or
16 reasonably should have known that the child was in danger of
17 being subjected to an act or acts of cruelty.

18 (j) The child's sibling has been abused or neglected, as defined
19 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
20 that the child will be abused or neglected, as defined in those
21 subdivisions. The court shall consider the circumstances
22 surrounding the abuse or neglect of the sibling, the age and gender
23 of each child, the nature of the abuse or neglect of the sibling, the
24 mental condition of the parent or guardian, and any other factors
25 the court considers probative in determining whether there is a
26 substantial risk to the child.

27 It is the intent of the Legislature that nothing in this section
28 disrupt the family unnecessarily or intrude inappropriately into
29 family life, prohibit the use of reasonable methods of parental
30 discipline, or prescribe a particular method of parenting. Further,
31 nothing in this section is intended to limit the offering of voluntary
32 services to those families in need of assistance but who do not
33 come within the descriptions of this section. To the extent that
34 savings accrue to the state from child welfare services funding
35 obtained as a result of the enactment of the act that enacted this
36 section, those savings shall be used to promote services which
37 support family maintenance and family reunification plans, such
38 as client transportation, out-of-home respite care, parenting
39 training, and the provision of temporary or emergency in-home
40 caretakers and persons teaching and demonstrating homemaking

1 skills. The Legislature further declares that a physical disability,
2 such as blindness or deafness, is no bar to the raising of happy and
3 well-adjusted children and that a court's determination pursuant
4 to this section shall center upon whether a parent's disability
5 prevents him or her from exercising care and control. The
6 Legislature further declares that a child whose parent has been
7 adjudged a dependent child of the court pursuant to this section
8 shall not be considered to be at risk of abuse or neglect solely
9 because of the age, dependent status, or foster care status of the
10 ~~parent~~. *parent, or solely on the basis of information concerning*
11 *the parent's placement history, behaviors, health or mental health*
12 *diagnoses, or any other circumstances, occurring prior to the birth*
13 *of the child.*

14 As used in this section, "guardian" means the legal guardian of
15 the child.

16 SEC. 2. Section 825.5 is added to the Welfare and Institutions
17 Code, to read:

18 825.5. The clerk of the superior court shall maintain court files
19 and records concerning a minor dependent parent or a nonminor
20 dependent parent of a child who is the subject of a dependency
21 petition separate from court files and records concerning the child.
22 Dependency court records concerning a minor dependent parent
23 or a nonminor dependent parent shall not be disclosed to counsel
24 in the child's dependency proceedings or admitted as evidence in
25 the child's dependency proceedings except pursuant to a court order
26 issued in response to a petition filed under subparagraph (P) of
27 paragraph (1) of subdivision (a) of Section 827.

28 SEC. 3. Section 16002.5 of the Welfare and Institutions Code
29 is amended to read:

30 16002.5. It is the intent of the Legislature to maintain the
31 continuity of the family unit and to support and preserve families
32 headed by minor parents and nonminor dependent parents who
33 are themselves under the jurisdiction of the juvenile court by
34 ensuring that minor parents and nonminor dependent parents and
35 their children are placed together in as family-like a setting as
36 possible, unless it has been determined that placement together
37 poses a risk to the child. It is also the intent of the Legislature to
38 ensure that complete and accurate data on parenting minor and
39 nonminor dependents is collected, and that the State Department
40 of Social Services shall ensure that the following information is

1 publicly available on a quarterly basis by county about parenting
2 minor and nonminor dependents: total number of parenting minor
3 and nonminor dependents in each county, their age, their ethnic
4 group, their placement type, their time in care, the number of
5 children they have, and whether their children are court dependents.

6 (a) To the greatest extent possible, minor parents and nonminor
7 dependent parents and their children shall be provided with access
8 to existing services for which they may be eligible, that are
9 specifically targeted at supporting, maintaining, and developing
10 both the parent-child bond and the dependent parent's ability to
11 provide a permanent and safe home for the child. Examples of
12 these services may include, but are not limited to, child care,
13 parenting classes, child development classes, and frequent
14 visitation.

15 (b) Child welfare agencies may provide minor parents and
16 nonminor dependent parents with access to social workers or
17 resource specialists who have received training on the needs of
18 teenage parents and available resources, including, but not limited
19 to, maternal and child health programs, child care, and child
20 development classes. Child welfare agencies are encouraged to
21 update the case plans for pregnant and parenting dependents within
22 60 calendar days of the date the agency is informed of a pregnancy.
23 When updating the case plan, child welfare agencies may hold a
24 specialized conference to assist pregnant or parenting foster youth
25 and nonminor dependents with planning for healthy parenting and
26 identifying appropriate resources and services, and to inform the
27 case plan. The specialized conference shall include the pregnant
28 or parenting minor or nonminor dependent, family members, and
29 other supportive adults, and the specially trained social worker or
30 resource specialist. The specialized conference may include other
31 individuals, including, but not limited to, a public health nurse, a
32 community health worker, or other personnel with a comprehensive
33 knowledge of available maternal and child resources, including
34 public benefit programs. Participation in the specialized conference
35 shall be voluntary on the part of the foster youth or nonminor
36 dependent and assistance in identifying and accessing resources
37 shall not be dependent on participation in the conference.

38 (c) The minor parents and nonminor dependent parents shall be
39 given the ability to attend school, complete homework, and

1 participate in age and developmentally appropriate activities
2 unrelated to and separate from parenting.

3 (d) Child welfare agencies, local educational agencies, and child
4 care resource and referral agencies may make reasonable and
5 coordinated efforts to ensure that minor parents and nonminor
6 dependent parents who have not completed high school have access
7 to school programs that provide onsite or coordinated child care.

8 (e) Foster care placements for minor parents and nonminor
9 dependent parents and their children shall demonstrate a
10 willingness and ability to provide support and assistance to minor
11 parents and nonminor dependent parents and their ~~children.~~
12 *children, shall support the preservation of the family unit, and*
13 *shall provide preventive services to address any concerns*
14 *regarding the safety, health, or well-being of the child, and to*
15 *prevent, whenever possible, the filing of a petition to declare the*
16 *child a dependent of the juvenile court pursuant to Section 300.*

17 (f) Contact between the child, the custodial parent, and the
18 noncustodial parent shall be facilitated if that contact is found to
19 be in the best interest of the child.

20 (g) For the purpose of this section, “child” refers to the child
21 born to the minor parent.

22 (h) For the purpose of this section, “minor parent” refers to a
23 dependent child who is also a parent.

24 (i) For the purpose of this section, “nonminor dependent parent”
25 refers to a nonminor *dependent*, as described in subdivision (v) of
26 Section ~~11400~~ 11400, who also is a parent.